

DETAILED ACTION

1. Claims 4, 43, 47, 49-51, 53-54 are allowed

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
3. Authorization for this examiner's amendment was given in a telephone interview with Doreen Hogle on June 24, 2010.
4. The application has been amended as follows:
 - a. Claims 1-3, 34-39 and 42 have been cancelled as drawn to a non-elected invention.
 - b. Claim 47 has been amended to recite:

47. A method of detecting SEQ ID NO: 1 comprising
a) obtaining a test sample from a human,
b) hybridizing a probe consisting of SEQ ID NO: 1 with the test sample,
and
c) detecting SEQ ID NO: 1 in the test sample.
 - c. Claim 49 has been rejoined.

Rejoinder of Combinations

5. Claims 4, 53 are allowable. In the restriction requirement of April 28, 2008, applicant was required to pick a single combination or subcombination for examination. Applicant elected on June 30, 2008 the single polymorphism at nucleotide 205 of SEQ ID NO: 1. The restriction requirement between the combinations and subcombinations comprising the single polymorphism at nucleotide 205 of SEQ ID NO: 1, as set forth in the Office action mailed on April 28, 2008, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a).

The examiner had required restriction between subcombinations usable together. Applicant elected a subcombination, namely the single polymorphism at nucleotide 205 of SEQ ID NO: 1 and claims thereto have been found allowable. The restriction requirement has been withdrawn as to the subcombinations comprising the single polymorphism at nucleotide 205 of SEQ ID NO: 1. The Examiner called applicant to offer rejoinder stating any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant told the Examiner they did not wish to reinstate any combination claims at this time.

Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Reasons for Allowance

6. The following is an examiner's statement of reasons for allowance.

The claims have been amended to be directed to a method of detecting the presence or, or predisposition to, Lafora's disease in a human by detecting a mutation at position 205 of SEQ ID NO: 1; methods of screening for mutations in SEQ ID NO: 1 in addition to detecting SEQ ID NO: 1 in a human sample.

The declaration under 37 CFR 1.132 filed March 24, 2010 is sufficient to overcome the rejection of claims based upon Chan et al 2003.

The prior art teaches method for detecting nucleic acids comprising SEQ ID NO: 1 and methods for detecting fragments of SEQ ID NO: 1 (see Blakey 2001 and WO 2004038003, SEQ ID NO: 1856). However, the prior art fails to teach a method of detecting SEQ ID NO: 1 using a probe consisting of SEQ ID NO: 1 or a method for detecting the mutation at position 205 of SEQ ID NO: 1 as indicative of Lafora's disease.

Therefore, the instant claims are allowable over the prior art.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Jeanine Goldberg whose telephone number is (571) 272-0743. The examiner can normally be reached Monday-Friday from 7:00 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Nguyen, can be reached on (571)272-0731.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The Central Fax Number for official correspondence is (571) 273-8300.

/Jeanine Goldberg/
Primary Examiner
July 2, 2010